

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JULIE HOEHING,
Plaintiff,

VS.

BRINKER INTERNATIONAL, INC.
D/B/A CHILI'S GRILL & BAR, AND
AMERICAN ASSETS TRUST, INC.,
Defendant.

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CIVIL ACTION NO. 5:21-cv-696

DEFENDANT'S NOTICE OF REMOVAL

Defendant Brinker International, Inc. d/b/a Chili's Grill & Bar ("Defendant") files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and respectfully shows:

Commencement and Service

1. On June 4, 2021, Julie Hoehing ("Plaintiff") commenced this action by filing an Original Petition ("State Court Petition") in the 407th Judicial District Court, Bexar County, Texas. The case is styled Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. d/b/a Chili's Grill & Bar and American Assets Trust, Inc.*¹

2. The lawsuit was first served on Defendant on June 22, 2021.²

3. Defendant timely answered in state court on July 16, 2021.³

¹ See *Exhibit C*, Plaintiff's Original Petition.

² See *Exhibit D*, Citation and Return of Service.

³ See *Exhibit E*, Defendant Brinker International, Inc.'s Original Answer, Verified Denial and Affirmative Defenses.

4. This Notice of Removal is filed within thirty days of the receipt of service of process and is therefore considered timely pursuant to 28 U.S.C. § 1446(b). This Notice of Removal is also filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(c).

Grounds for Removal

5. Defendant is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship.

Diversity of Citizenship

6. There is complete diversity of citizenship between Plaintiff and Defendant.

7. Upon information and belief, Plaintiff is a citizen of Michigan.⁴

8. Defendant Brinker International, Inc. is a Delaware corporation with its principal place of business in Texas.⁵

9. Plaintiff alleges in her petition that Defendant American Assets Trust, Inc. is a corporation doing business in the state of Texas with its principal place of business at 3420 Carmel Mountain Road, Suite 100, San Diego, California 92121.⁶

⁴ See **Exhibit I**, Brinker International's Incident Report

⁵ See **Exhibit F**, Affidavit of Terri Sykes.

⁶ See, **Exhibit C**, Plaintiff's Original Petition at ¶ 2.2.

28 U.S.C § 1332(c)(1); see also, *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1185-86 (2010).

Amount in Controversy

10. This is a personal injury case with well over \$75,000 in controversy at the time of this removal. Per her Petition, Plaintiff pleads monetary relief in an amount more than \$250,000 but less than \$1,000,000, pursuant to Rule 47(c) of the Texas Rules of Civil Procedure.⁷

Venue

11. Venue lies in the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed the action in this judicial district and division.

Notice

12. Defendant will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court and will serve upon Plaintiff's counsel, a notice of the filing of this Notice of Removal.

Exhibits to Notice of Removal

13. In support of this Notice of Removal and pursuant to 28 U.S.C. §1446(a), true and correct copies of the following documents are attached to this Notice as corresponding lettered exhibits:

- A. Index of documents filed in Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. dba Chili's Grill & Bar and American Assets Trust, Inc.* in the 407th Judicial District Court, Bexar County, Texas.—
Exhibit A

⁷ See ***Exhibit C***, Plaintiff's Original Petition at ¶ 3.1.

- B. Docket Sheet for Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. dba Chili's Grill & Bar and American Assets Trust, Inc.* in the 407th Judicial District Court, Bexar County, Texas. – ***Exhibit B***
- C. Plaintiff's Original Petition, filed on June 4, 2021, Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. dba Chili's Grill & Bar and American Assets Trust, Inc.* in the 407th Judicial District Court, Bexar County, Texas. – ***Exhibit C***
- D. Citation Issued on June 4, 2021; Served on June 22, 2021 and Affidavit of Service, filed June 23, 2021, Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. dba Chili's Grill & Bar and American Assets Trust, Inc.* in the 407th Judicial District Court, Bexar County, Texas. – ***Exhibit D***
- E. Defendant's Original Answer, Verified Denial and Affirmative Defenses, filed July 16, 2021, Cause No. 2021CI11263; *Julie Hoehing v. Brinker International, Inc. dba Chili's Grill & Bar and American Assets Trust, Inc.* in the 407th Judicial District Court, Bexar County, Texas. – ***Exhibit E***
- F. Affidavit of Terri Sykes. – ***Exhibit F***
- G. Certificate of Interested Persons – ***Exhibit G***
- H. Notice of Filing Removal in State Court – ***Exhibit H***
- I. Brinker International's Incident Report – ***Exhibit I***

Prayer

WHEREFORE, Defendant, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the District Court of Bexar County, Texas to this Court.

Respectfully submitted,

By: /s/ Karl Seelbach

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*ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the above and foregoing document has been served by electronic delivery to counsel identified below on this, the 22nd day of July 2021.

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